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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,576	07/20/2001	David Ossip	SAB-026	1402
36822	7590	06/28/2005	EXAMINER	
GORDON & JACOBSON, P.C. 60 LONG RIDGE ROAD SUITE 407 STAMFORD, CT 06902			CHOI, PETER H	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/910,576		OSSIP ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Peter Choi		3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-10 are pending in the application.

### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- In Figure 4, reference characters S418, S420 and S422 are respectively used to refer to the steps of Browse Shifts, Exit? And Logoff. However, these reference characters are not mentioned in the specification.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- In paragraph 61 (lines 19-20 of page 14) of the specification, a reference is made to step S500 that is not included in Figure 5.
- In paragraph 59 (line 7 of page 14) of the specification, a reference is made to screen reference character 700, which is not included in Figure 7.
- In paragraph 62 (line 22 of page 14) of the specification, a reference is made to screen reference character 800, which is not included in Figure 8.

Art Unit: 3623

- In paragraph 66 (line 5 of page 16) of the specification, a reference is made to screen reference character 900, which is not included in Figure 9.
- In paragraph 71 (line 19 of page 17) of the specification, a reference is made to screen reference character 1000, which is not included in Figure 10.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3623

5. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by O'Brien (U.S Patent #6,587,831).

As per claim 1, O'Brien teaches a computer implemented method of facilitating work allocation employees within an organization comprising:

presenting **(making available for viewing)** a work schedule to a first one of said employees, including indicators of work shifts assigned to said first one of said employees [Column 4, lines 64-65 and Column 6, lines 18-19];

receiving input from said first one of said employees, indicative of a desire to make a particular one of said work shifts assigned to said first one of said employees available to other employees **(employees enter a shift request 550, enter a leave request 560, enter a swap request 570, or send a bulletin 580)** within said organization [Column 7, lines 7-9];

presenting indicators of availability of said particular one of said assigned work shifts to other employees within said organization **(host 110 informs employees that shift requests are being auctioned at step 625)** having sufficient ability to substitute for said first employee [Column 7, lines 59-61];

receiving from one of said other employees an offer **(employee enters a bid at step 650 to accompany the shift request, and view pending bids to requested shift changes at step 640)** to assume said particular one of said assigned work shifts [Column 7, lines 62-66].

As per claim 2, O'Brien teaches the method of claim 1, further comprising assigning said particular work shift **(if the employee's bid satisfies the predetermined criteria and fits the business parameters, he or she will receive the shift assignment)** to said one of said other employees, as a consequence of said offer [Column 8, lines 10-12].

As per claim 3, O'Brien teaches the method of claim 2, further comprising seeking approval of said assigning **(manager can scroll through any entered shift requests and mark each one as preliminarily approved or declined)** prior to said assigning from a supervisor [Column 7, lines 43-45].

As per claim 4, O'Brien teaches the method of claim 2, further comprising receiving an indicator of an acceptance of said offer **(automatically notified of whether his or her shift request was accommodated or not)** by said first one of said employees [Column 7, lines 35-36].

As per claim 5, O'Brien teaches the method of claim 1, further comprising identifying employees having sufficient ability to substitute for said first employee **(other employees holding the same position as the first employee)** by querying a database containing job identifiers **(employee data 150 including employee availability, business parameters 154 and rule base 152)** of said first employee, and other employees [Column 4, lines 52-53, and Column 9, lines 11-13].

As per claim 6, O'Brien teaches the method of claim 5, wherein said indicators are only provided to employees having like job descriptions (**sender may want to send the message {of a desire to swap shifts} only to other employees who hold the same position as the sender**) within said organization [Column 9, lines 11-13].

As per claim 7, O'Brien fails to explicitly teach the method of claim 2, wherein said offer comprises a counter-offer. However, submitting counter-offers (an offer is made and rejected, allowing the bidder to make a larger offer) are an inherent step in auction systems such as that taught by O'Brien, meeting the limitations of the claim.

As per claim 8, O'Brien teaches the method of claim 7, wherein said counter-offer comprises a request to trade said particular work shift for another shift (**shift swapping**) assigned to said one of said other employees [Column 8, lines 53-55].

As per claim 9, O'Brien teaches a computer readable medium storing computer software for a work management system, that when loaded at computer server in communication with a data network, adapts said server to:

present (**make available for viewing**) a work schedule to a first employee, including indicators of work shifts assigned to said first employee [Column 4, lines 64-65 and Column 6, lines 18-19];

Art Unit: 3623

receive input from said first employee, indicative of a desire to make a particular one of said work shifts assigned to said first employee available to other employees **(employees enter a shift request 550, enter a leave request 560, enter a swap request 570, or send a bulletin 580)** within said organization [Column 7, lines 7-9];

present indicators of availability of said particular one of said work shifts to other employees within said organization **(host 110 informs employees that shift requests are being auctioned at step 625)** having sufficient ability to substitute for said first employee [Column 7, lines 59-61];

receive from at least one of said other employees an offer **(employee enters a bid at step 650 to accompany the shift request, and view pending bids to requested shift changes at step 640)** to assume said particular one of said assigned work shifts [Column 7, lines 62-66].

As per claim 10, O'Brien teaches a work management system, located within the premises of an organization, said system comprising:

a computer data network **(distributed network such as Internet 100)** [Column 3, lines 6-7];

a computer server **(host server 110)** in communication with said data network [Column 3, lines 7-8];

a plurality of kiosks **(computer terminals 120, 130)** in communication with said data network [Column 3, lines 12-13];



said server (**host server 110**) hosting a database storing employee work schedules (**employee availability**) [Column 4, lines 12-24];

said kiosks (**computer terminals 120, 130**) in communication with said server (**host server 110 via the Internet 100**) [Figure 1, Column 3, lines 7-13];

said server (**host server 110**) operable (**scheduling engine 148 with processing unit 158**) to allow an employee to post shifts for trade (**route data from managers to employees to the appropriate database, initiates a response, and route such responses to pre-selected managers and/or employees**) from one of said kiosks (**computer terminals 120, 130**), and receive bids from other employees to assume posted shifts by way of said kiosks [Figures 1,3 and Column 5, lines 1-4].

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Durand et al. (U.S Patent #6,272,467) teaches a system for data collection and matching compatible profiles. The method finds compatible matches where participants are identified by a profile of traits and a set of criteria desired in a match. In one embodiment, the method can match candidates and job hunters with employment opportunities.

Fields et al. (U.S Patent #5,111,391) teaches a system and method for making staff schedules as a function of available resources as well as employee skill level, availability and priority. The system and method includes a database for storing and retrieving information characterizing applicable labor requirements, skill levels required to perform tasks, resources that may confine or facilitate the scheduling of a task at a given time, relationships between tasks, employees with associated skill levels and priorities and availability.

Defoor (PGPub US2001/0042000) teaches a method for matching job candidates with employers. An accessible database, such as an Internet web site, is used as a marketplace where job postings can be posted and job candidates can submit resumes and a skills matrix (that describes their qualifications, competency and experience) for consideration. Employers operate a search engine that matches job positions with candidates.

Seltzer et al. (U.S Patent #6,741,989) teaches a web-based method and system for exchanging information among partners. The web-based system includes a server having a centralized database of business data and restricts access only to authorized users.

Green (U.S Patent #6,192,346) teaches a scheduling method and system having a bidding object that enables employees to bid for desired vacations and holidays.

Rapp et al. (PGPub US2002/0116232) teaches a system and method for interactive scheduling through a web site. Customers can access the vendor's appointment book by using the vendor's web site and schedule services.

Williams et al. (U.S Patent #6,873,964) teaches a method and system for recruiting personnel for a business entity. Potential candidates use a web site to submit resumes for available job postings and the system searches for matching jobs and resumes.

Farenden (PGPub 2002/0128894) teaches an Internet-based system for recruiting candidates for employment. The system uses a database to store employment requisitions and an interface to present candidates with questionnaires. Recruiters review candidates to assess their qualifications and skills with the requirements of the job.

Alison Sprout's "Scheduling your forces with a PC" (reference 1-U) teaches Adaptive Software's PeopleScheduler, which can automatically schedule employee breaks and lunch hours and warn of potential conflicts.

Art Unit: 3623

Carol Holzberg's "PeopleScheduler 3.0" (reference 1-V) teaches that PeopleScheduler 3.0 works on a standalone PC or an office network. The software also allows users to create and manage employee schedules and view the information.

Carol Holzberg's "Visual Staff Scheduler Pro 3.0" (reference 1-W) teaches that Visual Staff Scheduler Pro 3.0 allows users to control the schedules for 200 employees and 99 shifts, and printing up to 42 days of scheduling information. Scheduling takes place on a calendar-like spreadsheet that provides an at-a-glance view of employee work shifts.

Andy Feibus' "Make Short Work of Employee Scheduling" (reference 1-X) teaches HourTrack 98 from Vitrix Inc., which operates in a networked shared-disk environment. Information regarding employee name, address, schedule, sick leave, personal leave, and vacation hours are stored in a single database file.

A ScheduleSoft press release from June 1998 (reference 2-U) teaches the release of ScheduleSoft, a web-based shift scheduling network.

A ScheduleSoft press release from October 1998 (reference 2-V) teaches the release of ScheduleSoft, a Windows-based web-based shift scheduling network designed to meet the unique needs of law enforcement scheduling. The software makes

Art Unit: 3623

it easy to update schedules by merely adding new information and generating revised schedules.

Visual Rota (reference 2-W) teaches a shift pattern generator software that obeys 2 rules. Rule #1 being that employees can swap shifts on any day, with someone else, as long as that person is working. Rule #2 is that employees can swap a day off with someone, as long as the swap is days off.

Blue Pumpkin Software's PrimeTime software (reference 2-X) teaches a workforce management system that forecasts staffing level demands and matches it with the preferences of available agents (days and times of availability, shift length, etc.) while also factoring in work shifts, breaks, peak times, "wrap-up" time, and "off-phone" time. PrimeTime software is designed to balance employee availability, personal preferences and specializations with workplace needs. Shifts and breaks can be adjusted, part-time and full-time employees can be blended together to create a workforce, shifts can be rotated, and special situations can be accommodated.

MizziSoft (reference 3-U) teaches an efficient rostering system that facilitates a self-rostering program. The self-rostering program is an online program that allows employees to roster themselves on a spreadsheet type screen showing all the employees within their location, position and skill grouping (or any other form of filtering

Art Unit: 3623

required). Employees can request specific shifts, specify preferred days off, specify availability (and unavailability) and swap shifts as needed.

Adaptiv's WorkFORCE97 (reference 3-V) teaches a software solution to schedule people, lunches, and breaks automatically. It aids in prioritizing and scheduling important jobs and assigning them to the right people, and stores important personnel information.

Visual Staff Scheduler Pro 4.0 (reference 3-W) teaches a perpetual scheduling system that allows users to enter time-off requests or special notes in advance.

Computimes Malaysia published an article in 1998, "Dominant's Net-ready Scheduler Software" (reference 3-X) that discloses Livelink OnTime, a scheduler software designed to provide real-time group scheduling, personnel time management and resource allocation that was online web capability.

InTime Solutions Inc. (reference 4-U) teaches InTime Officer Scheduling, software designed to meet the unique and specific challenges of scheduling officers in a post-based environment.

Art Unit: 3623

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PC

June 23, 2005

  
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